IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 6215 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SALIM @ BODDO MOHAMMADBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 6215 of 2002

MR MM TIRMIZI for Petitioner No. 1

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 11/12/2002

ORAL JUDGEMENT

Rule : Mr L R Pujari, learned A P P appears and

waives service of notice of rule on behalf of the respondent-State.

2. This is an application challenging an order of the learned Additional City Sessions Judge, Court No. 14 at Ahmedabad dated 05/09/02, remanding the present applicant to police custody for a period of 6 days in connection with an offence registered with Dariapur Police Station at Ahmedabad, as Crime Register No. I-35 of 2002 relating to offences punishable under Section 307 IPC and other offences.

3. During the course of arguments it has been noticed that the investigating agency has already submitted charge-sheet against the present petitioner for the aforesaid offence. There is no dispute about the said fact raised on behalf of the State also. Further, it is an admitted position of fact that charge-sheet has already been filed subsequent to the above order passed by the learned Additional Sessions Judge. When the charge-sheet has already been filed, it is not in dispute that there is no question of handing over an accused person to police custody for police remand. The learned A P P also does not dispute the said position. In that view of the matter, this application is allowed and the order passed by the learned Additional Sessions Judge dated 05/09/02 in Criminal Revision Application No. 106 of 2002 is set aside, in view of the subsequent event. It is made clear that the investigating police agency is not debarred from getting further information in accordance with the provisions under Section 173 (8) of the Code of Criminal Procedure, 1973. Rule is made absolute.

(D. P. Buch, J.)

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